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No. 99-1439

Supreme Court, U.S.
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In The

Supreme Court of the United States

JAMES ANDEREGG,

Petitioner,

vs.

STATE OF WASHINGTON,

Respondent.

On Petition For Writ Of Certiorari To The Court Of Appeals Of The State Of Washington

RESPONDENT'S BRIEF IN OPPOSITION

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QUESTION PRESENTED

Both this Court and the Washington Supreme Court have held that there is no constitutional right to a jury trial in juvenile court. Did the Washington Court of Appeals properly hold that Petitioner James Anderegg was not entitled to a jury trial in juvenile court?

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STATEMENT OF THE CASE

In his Statement of the Case, Anderegg continues to minimize his involvement in the assault. Because the specific facts of the offense are not critical to the issue presented in his petition, the State refers this Court to the Court of Appeals' decision for a fuller account of the events surrounding Anderegg's offense. Petitioner's App. at 29-33.

Anderegg omits some significant procedural history regarding his case, and, therefore, the State supplements his Statement of the Case as follows:

On October 24, 1997, Anderegg was charged with second degree assault in the Juvenile Department of the King County Superior Court. Anderegg never requested a jury trial in juvenile court. After conducting a fact-finding hearing, the trial court found Anderegg guilty as charged.

Under Washington law, Anderegg's standard range disposition was 13 to 16 weeks commitment for the offense. At the disposition hearing, the court imposed a disposition below this range and placed Anderegg on 30 days home detention. The court explained that "it would serve no useful purpose, and would in fact be a hinderance, an injustice, to take you away from your schooling and your home and put you in a state institution."

On appeal, Anderegg claimed, for the first time, that he was entitled to a jury trial in juvenile court. The Washington Court of Appeals consolidated his appeal with numerous other appeals from juveniles raising this same issue. On June 21, 1999, the Washington Court of

Appeals issued its opinion denying Anderegg's claim. Petitioner's App. at 1-37. The Washington Supreme Court subsequently denied Anderegg's petition for review. Petitioner's App. at 53-55.

REASONS FOR DENYING THE WRIT

I. THE DECISION BELOW IS CONSISTENT WITH THE DECISIONS OF THIS COURT AND THE WASHINGTON SUPREME COURT.

In his petition, Anderegg fails to present any compelling reasons for this Court to grant certiorari. The Court of Appeals' decision is consistent with *McKeiver v. Pennsylvania*, 403 U.S. 528, 91 S. Ct. 1976, 29 L.Ed.2d 647 (1971), where this Court held that there is no constitutional right to a jury trial in juvenile court. The decision below is also consistent with numerous prior decisions of the Washington Supreme Court that have considered the issue presented. Moreover, Anderegg identifies no conflict between the decision below and a decision of any other state or federal court. Accordingly, under the criteria set forth in Rule 10, the Court should deny the petition.

In *McKeiver*, juveniles in several consolidated cases from Pennsylvania and North Carolina made the same argument as Anderegg here – that a jury trial was constitutionally required because the juvenile proceedings were substantially similar to criminal trials. The Court provided thirteen enumerated reasons why "trial by jury in

the juvenile court's adjudicative stage is not a constitutional requirement." 403 U.S. at 545. Among the reasons, the Court observed:

> 4. The Court has specifically recognized by dictum that a jury is not a necessary part even of every criminal process that is fair and equitable. . . .
>
> 5. The imposition of the jury trial on the juvenile court system would not strengthen greatly, if at all, the factfinding function, and would, contrarily, provide an attrition of the juvenile court's assumed ability to function in a unique manner. . . .
>
> 6. The juvenile concept held high promise. We are reluctant to say that, despite disappointments of grave dimensions, it still does not hold promise, and we are particularly reluctant to say, as do the Pennsylvania appellants here, that the system cannot accomplish its rehabilitative goals. . . .

403 U.S. at 547.

The Court concluded that "[i]f the formalities of the adjudicative process are to be superimposed upon the juvenile court system, there is little need for its separate existence. Perhaps that ultimate disillusionment will come one day, but for the moment we are disinclined to give impetus to it." 403 U.S. at 551.

After considering the specific provisions of Washington State's Juvenile Justice Act (the "JJA"), the Washington Supreme Court repeatedly has reached the same conclusion. In numerous decisions over the past thirty

years, that court has rejected claims that there is a constitutional right to a jury trial in juvenile court.[1] For example, in *State v. Schaaf*, 109 Wn.2d 1, 743 P.2d 240 (1987), the Washington Supreme Court disagreed with the claim that the juvenile system was so similar to the adult criminal system so as to require jury trials.

> The purposes and policies of the JJA are more complex than those of the adult criminal justice system, as expressed by the Sentencing Reform Act of 1981. The policies of the JJA are twofold: to establish a system of having primary responsibility for, being accountable for, and responding to the needs of youthful offenders; and to hold juveniles accountable for their offenses. Nowhere in the adult criminal system is there a policy of responding to the needs of offenders or of rehabilitating them.

109 Wn.2d at 10 (footnotes omitted).

Anderegg does not claim that these cases were wrongly decided. Instead, he argues that recent changes to Washington law now require the imposition of jury trials. In fact, the 1997 amendments were relatively minor. The unique features of the juvenile justice system recognized in *McKeiver* and *Schaaf* continue to exist. Numerous provisions of the JJA promote and emphasize the rehabilitation of juvenile offenders, and the term of commitment imposed on juveniles continues to be a small portion of the sentences adults receive for similar

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[1] *See In re: Estes v. Hopp*, 73 Wn.2d 263, 438 P.2d 205 (1968); *State v. Lawley*, 91 Wn.2d 654, 591 P.2d 772 (1979); *State v. Schaaf*, 109 Wn.2d 1, 743 P.2d 240 (1987); *Monroe v. Soliz*, 132 Wn.2d 414, 939 P.2d 205 (1997).

offenses. Some of the recent legislative amendments highlight the differences between the adult and juvenile systems. In the decision below, the Court of Appeals properly concluded that:

> The penalties and procedures under the juvenile system thus remain significantly different from those under the adult criminal system after the 1997 amendments. While those amendments somewhat increased its punishment aspect, they also increased its rehabilitative scope. The juvenile system continues to focus to a greater degree on the needs of the offender and on the goal of rehabilitation, rather than on punishment, which is the primary focus of the adult system. The continued existence of these differences compels us to conclude that the right to a jury trial does not apply to juvenile proceedings.

Petitioner's App at 20-21.

This decision is consistent with *McKeiver* and previous decisions by the Washington Supreme Court. There are no compelling reasons for this Court to grant certiorari.

II. SIGNIFICANT DIFFERENCES EXIST BETWEEN WASHINGTON'S JUVENILE JUSTICE SYSTEM AND THE ADULT CRIMINAL SYSTEM.

Anderegg's specific claim is that, as a result of 1997 amendments to the JJA, the juvenile justice system in Washington is "essentially equal" to the adult criminal system and, therefore, he was entitled to a jury trial in juvenile court. At the outset, it must be noted that

Anderegg could have obtained a jury trial under Washington law. He could have moved the juvenile court to decline jurisdiction and transfer the case to the adult criminal court. *See* Wash. Rev. Code § 13.40.110(1). Anderegg did not pursue this course because he recognized the significant benefits of staying in the juvenile justice system.[2] In fact, Anderegg obtained an order extending jurisdiction of the juvenile court over this case after he turns eighteen in order to ensure that he will remain under the jurisdiction of the juvenile court.

Why would Anderegg want to ensure that the juvenile court retains jurisdiction? Because the juvenile court is a much more favorable, tolerant, and understanding tribunal than an adult criminal court. Rehabilitation of the juvenile offender remains one of the guiding principles of the juvenile justice system. Anderegg received a fraction of the punishment he would have received had he been prosecuted as an adult.

Many provisions in the 1997 amendments reinforce the rehabilitative focus of the juvenile justice system. The legislative intent underlying the juvenile justice system remains the establishment of "a system capable of having primary responsibility for, being accountable for, and responding to the needs of youthful offenders." Wash. Rev. Code § 13.40.010(2). The State has a statutory duty to

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[2] The benefits of juvenile court jurisdiction are so well-recognized that a juvenile is presumed to have suffered prejudice when a delay in filing charges results in the loss of juvenile court jurisdiction. *State v. Dixon*, 114 Wn.2d 857, 860-61, 792 P.2d 137 (1990).

provide treatment to the juvenile offender.[3] No such duty exists in the adult system.[4]

In 1997, the legislature added a disposition option focusing on treatment –the chemical dependency dispositional alternative. Wash. Rev. Code § 13.40.165. Under this alternative, the court may suspend execution of a disposition and, instead, require the juvenile to undergo drug/alcohol treatment.

Other 1997 amendments reflect the legislature's belief that family involvement in the juvenile court proceedings further the rehabilitative goals of the JJA. In 1997, the Washington legislature added that a specific purpose of the JJA is to "[e]ncourage parents, guardians, or custodian of the juvenile to actively participate in the juvenile justice process." Wash. Rev. Code § 13.40.010(2)(k). The attorney-client privilege now protects a juvenile's parent from being compelled to disclose communications between the juvenile and his/her attorney. Wash. Rev. Code § 5.60.060(2)(b). New provisions require that the juvenile's parents attend the dispositional and adjudicatory hearings. Wash. Rev. Code 13.40.130(2).

Washington law requires that juveniles receive much prompter resolution of their cases compared to adults because of the legislature's belief that "prompt resolution

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[3] Wash. Rev. Code § 13.40.010(2)(f); *State v. S.H.*, 75 Wn.App. 1, 20, 877 P.2d 205 (1994), *rev. denied*, 125 Wn.2d 1016, 890 P.2d 20 (1995).

[4] "[N]owhere . . . in the adult criminal justice system, is there expressed a policy of 'responding to the needs' of offenders." *State v. Rice*, 98 Wn.2d 384, 392, 655 P.2d 1145 (1982).

of juvenile offense proceedings . . . promotes rehabilitation of the juvenile offender." *State v. Wilcox*, 71 Wn. App. 116, 119, 856 P.2d 1104 (1993). Accordingly, a juvenile must be brought to trial within 30 days of arraignment if held in detention and within 60 days if not held in detention. Washington Juvenile Court Rule 7.8(b). The comparable adult rule imposes time limits of 60 and 90 days. Washington Criminal Rule 3.3(c)(1).[5] Here, Anderegg was charged and proceeded to a fact-finding hearing in less than 50 days of his offense.

Though Anderegg suggests that Washington law now places a considerable stigma on juvenile offenders, the reality is that the JJA provides juveniles with numerous opportunities to avoid any record of adjudication. A juvenile may obtain "diversion" of his or her first and second misdemeanor offenses and certain felonies. Wash. Rev. Code § 13.40.070. No charge is ever filed, and, instead, the juvenile enters a diversion agreement with a diversionary unit "whereby the juvenile agrees to fulfill certain conditions in lieu of prosecution." Wash. Rev. Code § 13.40.080(1). Even after a juvenile has had an offense diverted, he or she remains eligible for a deferred disposition; so long as the juvenile complies with the terms of community supervision, the court will dismiss the case with prejudice. Wash. Rev. Code § 13.40.127.

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[5] *Compare* Wash. Rev. Code § 13.40.130(8) and Wash. Rev. Code § 9.94A.110 (a juvenile disposition hearing shall occur within 14 days of the fact-finding hearing while the comparable adult rule requires sentencing to occur within 40 days following conviction.)

Finally, when a juvenile is found guilty of an offense (that was not diverted or subject to a deferred disposition), he or she is committed for a fraction of the time imposed upon an adult who commits the same offense. For example, a fourteen year old juvenile who commits second degree rape faces a 15 to 36 week standard range, while an adult faces a standard range at least 10 times greater: 78 to 102 months. *See* Wash. Rev. Code §§ 9.94A.310, 9.94A.320, 13.40.0357. In this case, Anderegg received a disposition of 30 days detention. As an adult, he would have faced a standard range of 3 to 9 months confinement.

Finally, the JJA, even after the 1997 amendments, continues to allow a juvenile to erase his past juvenile record. If a juvenile spends a designated period of time in the community without committing any new offenses, his records may be sealed. Wash. Rev. Code § 13.50.050(11). Once the records are sealed, the juvenile can represent that the proceedings never occurred. Wash. Rev. Code § 13.50.050(14).

Rather than change the character of the juvenile justice system, the legislature has created exceptions to juvenile court jurisdiction when it has sought to increase punishment for certain offenses. In 1994, the legislature amended the Basic Juvenile Court Act to bring certain offenses committed by 16- and 17-year-olds under the jurisdiction of the adult criminal court. Wash. Rev. Code § 13.04.030(1)(e)(v); *In re Boot*, 130 Wn.2d 553, 560-63, 925 P.2d 964 (1996). The trend of the past decade has been to move juveniles out of juvenile court when the legislature has sought to increase punishment.

Most of Anderegg's specific complaints about the 1997 legislative amendments are addressed by the Court of Appeals and need not be repeated here. Petitioner's App. at 6-21. Other provisions to which he objects did not even go into effect during the proceedings below.[6] Some of his complaints concern juvenile practices that are decades old. For example, the fact that juvenile proceedings are not closed is not a new development. Indeed, when *McKeiver* was decided, this Court was aware that the press was admitted to juvenile courtrooms and had access to juvenile arrest and other records. 403 U.S. at 542.

In sum, the juvenile justice system remains distinct from the adult criminal justice system in several significant ways. The focus on the needs of the offender and the opportunities for rehabilitation distinguish the juvenile justice system from the adult system. Many of the 1997 amendments highlight these differences. The Court's reasoning in *McKeiver* continues to be applicable to this day.

CONCLUSION

As the intermediate appellate court in Washington State, the Court of Appeals reviews virtually all appeals arising from juvenile and adult criminal cases. Therefore, that court was in an excellent position to evaluate

[6] For example, Anderegg complains about the changes to the JJA's dispositional grid. These amendments did not go into effect until July 1, 1998, long after his case concluded below. *See* Wash. Rev. Code § 13.40.0357.

Anderegg's claim that juvenile proceedings in Washington are substantially the same as adult criminal cases. The decision of the Court of Appeals is consistent with the decisions of both this Court and the Washington Supreme Court. There are no compelling reasons for the court to grant certiorari in this case.

DATED: April 20, 2000

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